

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

**IN RE THE MATTER OF: R.M.A. (a minor child),
BY HIS NEXT FRIEND: RACHELLE APPLEBERRY**

APPELLANTS,

**v.
BLUE SPRINGS R-IV SCHOOL DISTRICT,
ET AL.**

RESPONDENTS.

DOCKET NUMBER WD78535

DATE: December 8, 2015

Appeal From:

Jackson County Circuit Court
The Honorable Jack R. Grate, Judge

Appellate Judges:

Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

Attorneys:

M. Madeline Johnson and Alexander L. Edelman, Kansas City, MO, for appellants.

Ryan T. Fry and Julius M. Oswald, Blue Springs, MO, for respondents.

MISSOURI APPELLATE COURT OPINION SUMMARY

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APPELLANTS,

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Jackson County

Before Division One: Anthony Rex Gabbert, Presiding Judge, Victor C. Howard, Judge and Cynthia L. Martin, Judge

R.M.A., through his next friend, appeals the trial court's denial of his petition for a writ of mandamus seeking to compel the Blue Springs R-IV School District, the Blue Springs School District Board of Education, the superintendent of Blue Springs R-IV School District, and the assistant superintendent of Blue Springs R-IV School District to give R.M.A. access to the boys restrooms and locker rooms.

DISMISS APPEAL.

Division One holds: The right to appeal the trial court's denial of a petition seeking a writ of mandamus hinges on whether, prior to the denial, the trial court issued a preliminary order in mandamus. If a trial court denies a petition in mandamus on its merits after it has granted a preliminary order, the trial court's judgment is subject to the relator's right of appeal. If a trial court denies a petition in mandamus without granting a preliminary order in mandamus, the relator's proper course of action is not to appeal the denial but to file the writ in a higher court. Here, the trial court neither issued a preliminary order in mandamus nor took an action that could be fairly interpreted as the functional equivalent of an issuance of a preliminary order in mandamus. Thus, appeal from the trial court's denial of R.M.A.'s petition in mandamus is not proper.

Opinion by Cynthia L. Martin, Judge

December 8, 2015

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